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EXAMINER

BELLINGER, JASON R

ART UNIT

PAPER NUMBER

3617

DATE MAILED: 05/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Applicati n No.

10/042,748

Applicant(s)

ST-PIERRE, YVES

Examiner

Jason R Bellinger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the clips "comprising L-shaped clips and flat clips" as set forth in claims 4, 8, and 12 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: details 10, 12, 20, 22, 24, 26, 28, 30, 32, and 40. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description:

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reference letters A, B, C, D, L, and X. While the letters "C" and "X" are used in the specification to denote a clip/no clip pattern example, it is unclear whether or not the letters in the specification correspond to the letters used in the drawing figures.

A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to because it is unclear if the numbers 1-48, which correspond to each tread row of endless track, and the numbers 1-4, which are placed in line with or next to the X's in the drawings figures are supposed to be detail numbers that correspond to specific aspects of the invention. If the first set of numbers (1-48) are simply tread row markers, then they should be deleted from the drawings, since they do not further define the invention. It seems that the second set of numbers (1-4) denote the pattern in which clips are or are not attached to the track. If it is the purpose of the X's to denote the lack of a clip, then the numbers are not needed, and should be deleted from the drawings, since one would only have to count the number of rows with and without clips to find the pattern.

The drawings are further objected to because it is unclear what the "X=agrafes" is denoting. An equal sign (=) near the letter "L" seems not to belong to any sort of legend. The drawings are further objected to due to the fact that Figure 2 is placed too close to the unlabelled drawing figure, and is too small to see any level of detail. The

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unlabelled drawing figure next to Figure 2, which seems to be an extension of Figure 1, should have a label.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to under 37 CFR 1.83(b) because they are incomplete. 37 CFR 1.83(b) reads as follows:

When the invention consists of an improvement on an old machine the drawing must when possible exhibit, in one or more views, the improved portion itself, disconnected from the old structure, and also in another view, so much only of the old structure as will suffice to show the connection of the invention therewith.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawing figures are considered to be incomplete due to the fact that the scale of the present drawings renders it nearly impossible to determine whether or not all aspects of the invention are shown. The drawings fail to show the clips connected to the endless track, and also fail to show the structure of the clips as claimed. The references cited by the examiner provide examples of how to completely illustrate the invention.

### ***Specification***

6. The disclosure is objected to because of the following informalities: Detail 28 is used to describe a plurality of holes in lines 7-8 on page 4, and is then used to describe a tread pattern on line 11 of page 4. It is unclear which of these descriptions is correct.

The disclosure is also objected to due to the fact that throughout the specification, the term "clip" in the phrase "clipping sites without clip" should be replaced with the term --clips-- or the phrase --a clip--. This would correct a minor grammatical error, possibly due to a literal translation of a foreign document.

Appropriate correction is required.

### ***Claim Objections***

7. Claims 1-13 are objected to because of the following informalities: The phrases "being characterized in that" or "characterized in that" contain no structure, and should be removed from the claims.

In claims 1-8, and 10-12, the term "clip" in the phrase "clipping sites without clip" should be replaced with the term --clips-- or the phrase --a clip--. This would correct a minor grammatical error, possibly due to a literal translation of a foreign document.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

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9. Claims 1-4, 8, and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 4, 8, and 12 are indefinite due to the fact that it is unclear what is actually being claimed by these claims.

10. Claim 1 recites the limitation "the sides" in lines 4-5. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) The invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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12. Claims 1-3, 5-7, 9-11, 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Morin et al. Morin et al an endless track 320 having a reinforced rubber material body with longitudinally spaced and transversely disposed stiffeners 328 embedded therein, the body having a central band portion delimited by a pair of opposite lateral band portions by a pair of corresponding suspension bearing portions (323a & 323b). Each suspension bearing portion (323a & 323b) defines a plurality of clipping sites that are adapted to receive a metallic clip 330. The clips 330 are arranged in a mixed clip sequence that comprises one or more successive clips 330 followed immediately by one or two successive clip sites with<sup>out</sup> a clip 330.

Namely, Morin et al describes the mixed clip sequence comprising a clip 330 followed by two clip sites without a clip 330 (see column 8, lines 1-3). This mixed clip sequence lowers the overall noise level generated by the rotation of the track 320.

### ***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 4, 8, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morin et al in view of Tokue. Morin et al only shows the use of a "flat" clip 330, and does not disclose the use of an L-shaped clip.



Tokue teaches the use of an L-shaped clip 4 on a rubber endless track. Therefore from this teaching, it would have been obvious to one of ordinary skill at the time of the invention to provide the endless track of Morin et al with an L-shaped clip for the purpose of providing wear protection for the drive lug that sits adjacent to the clipping site.

Morin et al as modified by Tokue would include an L-shaped clip at least at any four successive clipping sites where a clip is provided, for the above reason.

### ***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references are considered to show endless tracks having noise reduction properties. For example, Courtemanche ('510) shows an endless track of the type described above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason R Bellinger whose telephone number is 703-308-6298. The examiner can normally be reached on Mon - Thurs (9:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Morano can be reached on 703-308-0230. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Jason R Bellinger  
Examiner  
Art Unit 3617



jrb  
May 3, 2003



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